

December 14, 2009

VIA ECFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554


Re: Nex-Tech, Inc.
Notice of Ex Parte Oral Presentation
WC Docket No. 05-337; CC Docket No. 96-45

Dear Ms. Dortch:

On December 14, 2009, Jeff Wick, CEO of Nex-Tech, Inc. ("Nex-Tech"), Larry Cheeseman, Director of Revenue Requirements and Regulatory Affairs for Rural Telephone Service Co., Inc., and Tony S. Lee, counsel to Nex-Tech, met with Christine D. Kurth, Policy Director and Wireline Counsel to Commissioner McDowell, Christi Shewman, Acting Legal Advisor to Commissioner Baker, Angela Kronenberg, Acting Wireline Legal Advisor to Commissioner Clyburn, and the following staff members of the Telecommunications Access Policy Division: Jennifer McKee, Katie King, Irene Flannery, Gary Seigel, and Alex Minard, to discuss Nex-Tech's cost study filed in the above-referenced docket. At the meetings, Nex-Tech urged the FCC to provide confirmation to USAC that Nex-Tech should receive USF support in the amounts demonstrated by its cost study. A copy of the handouts distributed at the meetings are attached to this letter.

Please direct any questions regarding this matter to the undersigned.

Respectfully submitted,


Tony S. Lee

Counsel for Nex-Tech, Inc.

Enclosures



FCC Ex parte Meeting

December 14, 2009

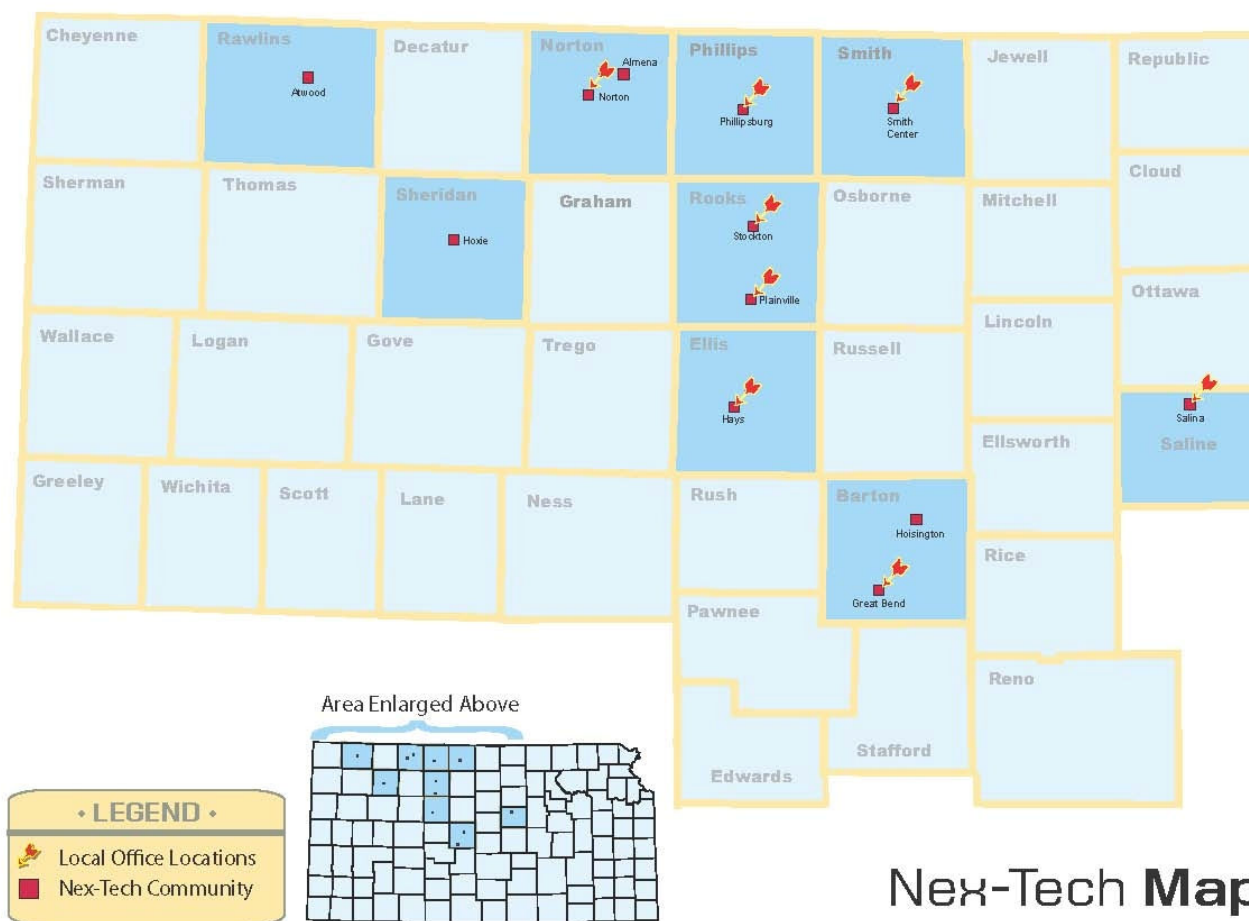


Our Company At A Glance

- CETC (Certified Eligible Telecommunications Carrier)
- Facility-Based Communities
- Landline Customers – over 14,000
- Broadband Internet Customers – over 16,000
- Video Customers – over 9,500
- Annual revenues of over \$40 million



Nex-Tech Map



Nex-Tech Map



What Makes Us Different?



Local Offices





Marketing

An advertisement for NEXTECH's "Lightning Jack" high-speed internet service. The background is a blue sky with white clouds. On the left, a large white "#1" is positioned next to the text "Internet Provider" in a bold, black, sans-serif font. Below this, the text "IN NORTHWEST KANSAS!" is written in a smaller, yellow, sans-serif font. At the bottom left, the phrase "Sign up and see why!" is written in a white, italicized, sans-serif font. On the right side, there is a cartoon illustration of a grey rabbit character with long ears, wearing a white shirt and a yellow lightning bolt around its neck. The rabbit is depicted in a dynamic, running pose with motion lines behind its feet. In the top right corner of the advertisement, the NEXTECH logo is repeated, with the tagline "A Rural Telephone Company" written in small text below it. At the bottom center, there is a yellow oval containing the text "LIGHTNING" in bold black letters, "HIGH-SPEED INTERNET" in smaller black letters, and "JACK" in large, bold, yellow letters with a black outline.



Free Wi-Fi

**SURF THE INTERNET
*FREE!***

NEXTECH
625-7070
2418 Vine, Hays

Wi-fi
HOTSPOT



- > Tiger Mat
- > Neighbors
- > Imperial Garden
- > Gutch's Restaurant
- > Augustine's Bakery
- > Hays Public Library
- > Precision Valley Golf
- > Hays Regional Airport
- > Semolino Coffee & Eatery
- > Rooftops Restaurant & Bar
- > Gutierrez Mexican Restaurant
- > Lb. Brewing Co. and Gella's Diner

www.nex-tech.com



Norton, Kansas

- \$6 million RUS Broadband Loan
- Norton Population – 3,012
- Opened a local office in 2000
- Launched Fiber-To-The-Premise services in 2001
- Bundle – Local Telephone, Long Distance, High-Speed Wireless Internet and Cable Television
- Achieved over 90% market penetration
- Provided broadband services to the community three years before the incumbent AT&T launched broadband services in 2004
- Leveled the “playing field” for a small rural town



Success Stories

- One success story is Plainville - based company Dessin Fournir. Chuck Comeau, Co - founder and CEO of Dessin Fournir, praised Nex - Tech for bringing advanced services to Plainville, Kansas, through the use of RUS Broadband Loan funds.
 - Launched Dessin Fournir in 1993.
 - Set up manufacturing operations in Los Angeles and maintained a small office and staff in Kansas.
 - In 2005, outsourcing from Plainville took an exponential leap forward when broadband services were introduced to the Plainville area through Nex - Tech. With this technological advancement, all functions were quickly relocated, except for the actual production of furniture, to Plainville.
 - Dessin Fournir has 152 staff members, 91 of whom are now located in the Plainville office.



FCC Interim Cap Order



FCC Interim Cap Order

- FCC adopted a cap on USF support to control USF growth.
- FCC also adopted a limited exception to the interim cap if CETC submits own costs.
- CETCs are not “subject to the interim cap to the extent that it files cost data demonstrating that its costs meet the support threshold in the same manner as the incumbent LEC.”
- The FCC stated that its intent in adopting the Cost Study Exception was to be consistent with the precedents established in the *ALLTEL-Atlantis Order* and the *AT&T Dobson Order*.
- In the *ALLTEL-Atlantis Order*, the Commission stated that a CETC's “high cost support would [] be determined by USAC by applying the same benchmarks that are applied to an incumbent LEC's costs to determine its support.”



RICA Letter

- The Rural Independent Competitive Alliance (RICA) has filed a letter in support
 - RICA urges the FCC to provide USAC with guidance on processing USF payments to CETCs that submit cost studies.
 - Nex-Tech and other RICA members have responded to pleas of residents in nearby rural areas where large ILECs provide basic service utilizing old obsolete networks, and focus on serving densely populated areas.
 - “Identical support” rule does not achieve the FCC’s underlying universal service objectives, and results in insufficient funding in rural areas.
 - Inequitable result occurs when a rural CETC, such as Nex-Tech, attempts to bring state-of-the-art service to a high-cost area that is underserved by the large incumbent carriers.
 - Nex-Tech’s cost submission to USAC raises no new or novel process or issue.



Nex-Tech Cost Based USF Study



Nex-Tech Cost Based USF Study

- Under the USF identical support rule, Nex-Tech's USF support for the year 2008 was \$33,722 (approximately 55 cents per line per month).
- Nex-Tech's cost based USF computation shows that an annual USF amount of \$1,955,542 is required to provide and maintain the required universal services in remote, low customer density areas where Nex-Tech has been designated an ETC in Kansas (approximately \$26.97 per line per month).



Nex-Tech Cost Based USF Computation

- Computation based on year 2008 financial information following the same rules and methodology that apply to rural ILECs.
 - Accounting follows FCC Part 32 Rules.
 - Non-supported operations removed following FCC Part 64 Rules.
 - Jurisdictional Separation performed following FCC Part 36 Rules.
 - Interstate Common Line Separation performed following FCC Part 69 Rules.
 - High Cost support calculated following FCC Part 54 Rules.



Nex-Tech Cost Based USF Computation

- High Cost Loop Support (HCL)
 - \$90,886 monthly; \$1,090,632 annual amount
- Local Switching Support (LSS)
 - \$2,866.50 monthly; \$34,398 annual amount
- Interstate Common Line Support (ICLS)
 - \$69,209.33 monthly; \$830,512 annual amount



Nex-Tech Cost Based USF Filing

- USF Support request filed July 29, 2009
 - FCC via ECFS and letter, WC Docket No. 05-337; CC Docket No. 96-45
 - USAC letter
 - Follow-up discussions with Karen Majcher, Vice President, High Cost and Low Income Division
 - Need FCC direction for oversight and administration of CETC cost based USF studies



Nex-Tech's Request

- FCC to direct USAC to process the cost studies submitted by CETCs, and specifically, the cost study submitted by Nex-Tech to USAC. Nex-Tech requests that the FCC direct USAC to provide Nex-Tech with the full amount of USF support based on Nex-Tech's actual costs. Pursuant to the FCC's *Interim Cap Order*, Nex-Tech should receive the full amount of USF support as demonstrated by the cost study.
- Nex-Tech requests that HCL Support be distributed on the USF computation beginning January 1, 2010, following the schedule for HCL payments to rural ILECs.
- Nex-Tech requests that LSS be distributed on the USF computation beginning May 1, 2008 (based on Interim Cap Order).
- Nex-Tech requests that ICLS be distributed on the USF computation beginning May 1, 2008 (based on Interim Cap Order).

July 29, 2009

VIA ECFS

Marlene H. Dortch, Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

**Re: Nex-Tech, Inc.
Submission of Cost Study
WC Docket No. 05-337; CC Docket No. 96-45**

Dear Ms. Dortch:

On behalf of Nex-Tech, transmitted herewith is a copy of Nex-Tech, Inc.'s ("Nex-Tech") cost study that is being filed with the Universal Service Administrative Company ("USAC"). Pursuant to informal guidance from FCC staff, the cost study is being submitted to both USAC and the FCC. Nex-Tech's submission to the FCC is only for informational purposes at this time. However, should USAC determine that input from the Commission is required for USAC to process Nex-Tech's request for universal service fund ("USF") support, or to the extent that USAC requires direction from the FCC regarding the handling of Nex-Tech's request for USF support based on the cost study, Nex-Tech requests that the Commission instruct USAC to provide the full amount of USF support as shown by the cost study.

In the FCC's *Interim Cap Order*,¹ the Commission determined that the amount of USF support that competitive eligible telecommunications carriers ("ETCs") receive should be limited to control the growth of the USF. Specifically, the FCC ruled that the total annual competitive ETC support for each state would be capped at the level of support that competitive ETCs in that state were eligible to receive during March 2008 on an annualized basis. However, the FCC adopted limited exceptions to the application of the interim cap – one of which allowed a competitive ETC to exceed the interim cap to the extent it filed cost data demonstrating that its

¹ *High-Cost Universal Service Support; Federal-State Joint Board on Universal Service; Alltel Communications, Inc., et al. Petitions for Designation as Eligible Telecommunications Carriers RCC Minnesota, Inc.; RCC Atlantic, Inc. New Hampshire ETC Designation Amendment*, WC Docket No. 05-337, CC Docket No. 96-45, 23 FCC Rcd 8834 (2008) ("*Interim Cap Order*").

Marlene H. Dortch, Secretary

July 29, 2009

Page 2

costs met the support threshold in the same manner as the incumbent local exchange carrier ("ILEC").

Pursuant to the cost study exception in the *Interim Cap Order*, Nex-Tech prepared the attached study demonstrating that its costs meet the support threshold in the same manner as the competing ILEC. High Cost Loop ("HCL"), Local Switching Support ("LSS"), and Interstate Common Line Support ("ICLS") was calculated using the same methodology as rural ILECs. The cost study demonstrates that USAC should provide Nex-Tech with \$1,955,542 in annual federal USF support.

As discussed above, the cost study is being filed directly with USAC under its normal USF processing procedures to request the amounts that are supported and justified by the cost study. Nex-Tech would be pleased to provide further information should the FCC need to assist USAC in its analysis of Nex-Tech's USF support request.

Please contact the undersigned if there are any questions with respect to this matter.

Respectfully submitted,



James U. Troup
Tony S. Lee

Counsel for Nex-Tech, Inc.

Enclosure

cc: Thomas Buckley
George Seigel



2418 Vine Street | PO Box 339 | Hays, KS 67601 | v.785.625.7070 | f.785.625.4479 | Toll Free: 877.625.7872 | www.nex-tech.com

July 29, 2009

Ms. Karen Majcher
Vice President High Cost & Low Income Division
Universal Service Administrative Company
2000 L Street, NW, Suite 200
Washington, DC 20036

Dear Ms. Majcher:

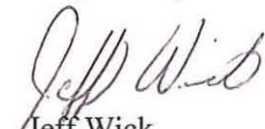
Nex-Tech, Inc. ("Nex-Tech") submits a cost study to the Universal Service Administrative Company ("USAC") that complies with the exemption to the current Eligible Telecommunications Carrier ("ETC") cap for Universal Service Funding ("USF") (*Interim Cap Order, WC Docket No. 05-337 and CC Docket No. 96-45*). Nex-Tech (Study Area Code 419007) is a provider of telecommunications services in rural western Kansas and is certified as an ETC.

The attached cost study demonstrates that Nex-Tech's costs meet the USF support threshold in the same manner as rural Incumbent Local Exchange Carriers ("ILECs"). High Cost Loop ("HCL"), Local Switching Support ("LSS"), and Interstate Common Line Support ("ICLS") were calculated using the same methodology as rural ILECs. The results of the cost study show Nex-Tech's annual federal USF support is \$1,955,542. Below is a summary of the requested annual support by USF mechanism:

HCL	\$ 1,090,632
LSS	\$ 34,398
ICLS	\$ <u>830,512</u>
Total	\$ 1,955,542

Also attached are the required certifications that mirror the ILEC format. Nex-Tech requests payment of the USF amounts that are supported and justified by the cost study. Please let us know if we can provide further information to assist USAC in its analysis of Nex-Tech's USF request.

Respectfully submitted,


Jeff Wick
Chief Operating Officer

Enclosure

Nex-Tech, Inc. (SAC 419007)

2008 Cost Study Estimate

USF Cost Per Loop Calculation

A Line	B	Current Year 2008			
		C National Average	D This Company	E Access Lines	F Annual Support
1	Unseparated Rev Req / Loop Access Lines Support	\$388.89	706.01	6043	\$1,090,632
2					
3	Support Calculation:	Total	Interstate	State	USF
4	0 - 115% of National Avg	\$447.22	\$111.81	\$335.42	0
5		100.00%	25.00%	75.00%	0.00%
6					
7	115% - 150% of National Avg	\$136.11	\$34.03	\$13.61	\$88.47
8		100.00%	25.00%	10.00%	65.00%
9					
10	Over 150% of National Avg	\$122.67	\$30.67	\$0.00	\$92.01
11		100.00%	25.00%	0.00%	75.00%
12					
13	Total	\$706.01	\$176.50	\$349.03	\$180.48
14		100.00%	25.00%	49.44%	25.56%
15					
16		2008			
17	Cost Per Loop Calculation:	Current YR			
18	CWF Cat 1	14,925,125			
19	COE Cat 4.13	6,828,696			
20	"A" Factor CWF (Average CWF Cat 1 / Tot CWF)	0.978368			
21	"B" Factor COE (COE Cat 4.13 / Tot COE)	0.811163			
22	"C" Factor CWF (CWF Cat 1 / Tot TPIS)	0.579836			
23	"D" Factor COE (COE CAT 4.13/Total TPIS)	0.265292			
24	"E" Factor CWF (Net CWF Cat 1 / Net TPIS)	0.580874			
25	"F" Factor COE (Net COE Cat 4.13 / Net TPIS)	0.262592			
26	Mat & Sup Assigned CWF Cat 1	1,376			
27	Mat & Sup Assigned COE Cat 4.13	629			
28	Accum Depr & Noncur Def Tax Assgn CWF Cat 1	5,490,297			
29	Accum Depr & Noncur Def Tax Assgn COE Cat 4.13	2,563,557			
30	CWF Maint Exp Assigned Cat 1	458,558			
31	COE Maint Exp Assigned Cat 4.13	120,997			
32	Network Support Assigned CWF Cat 1 & COE Cat 4.13	7,331			
33	Gen Sup Exp Assigned CWF Cat 1 & COE Cat 4.13	60,417			
34	Network Oper Exp Assigned CWF Cat 1 & COE Cat 4.13	161,256			
35	Depr & Amort Exp Assigned CWF Cat 1	865,598			
36	Depr & Amort Exp Assigned COE Cat 4.13	429,637			
37	Corp Op Exp Assigned CWF Cat 1 & COE Cat 4.13	106,605			
38	Oper Taxes Assigned CWF Cat 1 & COE Cat 4.13	173,714			
39	Benefits Assigned CWF Cat 1 & COE Cat 4.13	358,642			
40	Rents Assigned CWF Cat 1 & COE Cat 4.13	8,311			
41	Return Component CWF Cat 1	1,061,573			
42	Return Component COE Cat 4.13	479,899			
43	Unseparated USF Costs	4,292,539			
44	Study Area Cost Per Loop	706.01			
45		\$1,090,632			

Nex-Tech, Inc. (SAC 419007)**2008 Cost Study****USF Cost Per Loop Calculation****Corporate Expense Limitation**

		2008
		Current YR
1	Total Loops	6,080
2	4.13 Loops	6,043
3	CDPCPI	1.182193
4		
5	Corporate Operations Expense	139,909
6	Allowed Corporate Operations Expense	1,592,682
7	Difference	-1,452,773
8		
9	Corp Op Exp Limitation if < 6,001 Loops	
10	Meth 1 -- $(\$33.30853 - (4.13 \text{ Loops} \times .00246)) \times \text{CDPCPI}$	21.8
11	Meth 2 -- $\$50,000 / 4.13 \text{ Loops} \times \text{CDPCPI}$	9.78
12	Allowed Corp Op Exp > of 38 or 39 X 12 X Tot Lp	1,590,739
13		
14	Corp Op Exp Limitation if > 6,001 < 18,006 Loops	
15	$(\$88429.20 / 4.13 \text{ Lp}) + 3.83195 \times \text{CDPCPI}$	21.83
16	Allowed Corp Op Exp 47 X 12 X Tot Lp	1,592,682
17		
18	Corp Op Exp Limitation if > 18,006 Loops	
19	$\$9.68 \times 12 \times \text{Total Lp} \times \text{CDPCPI}$	834,927

Nex-Tech, Inc. (SAC 419007)**2008 Cost Study****USF Accounts**

Line	Description	Accnt or Cat	2008 Current YR
060	Total Loops		6,080
070	Loops		6,043
080			
160	Tel Plant in Service	2001	25,740,255
170	Materials and Supplies	1220	2,372
190	Accumulated Depreciation	3100	9,497,796
195	Accumulated Amort - Tang	3400	0
210	Noncur Def Op Inc Tax	4340	0
220	Net Plant Investment		16,244,831
230	COE Switching	2210	425,986
235	COE Operators	2220	
240	COE Transmission	2230	7,992,416
245	Total COE		8,418,402
250	Circuit Equipment	Cat 4.13	6,828,696
255	CWF Total	2410.0000	15,255,120
260	Accum Depr COE Switch	3100.2210	117,773
265	Accum Depr COE Oper	3100.2220	
270	Accum Depr COE Tran	3100.2230	3,042,574
275	Total Accum Depr COE		3,160,347
280	Accum Depr CWF	3100.2410	5,611,689
310	Noncur Def Op Tax COE 1 Switching	4340.2210	0
315	Noncur Def Op Tax COE 2 Oper	4340.2220	
320	Noncur Def Op Tax COE 3 Transmission	4340.2230	0
325	Total Noncur Def Tax COE		0
330	Noncur Def Tax CWF	4340.2410	0
335	Network Support-Total	6110	8,675
340	Network Support-Ben	6110	0
345	Network Support -Rents	6110	0
350	General Support-Total	6120	84,608
355	General Support-Benefits	6120	3,285
360	General Support-Rents	6120	9,834
365	COE Switching Total	6210	111,359
370	COE Switching - Benefits	6210	23,388
375	COE Switching - Rents	6210	0
380	COE Operators - Total	6220	
385	COE Operators - Benefits	6220	
390	COE Operators - Rents	6220	
395	COE Transmission - Total	6230	61,194
400	COE Transmission - Benefits	6230	0
405	COE Transmission - Rents	6230	0
410	COE Total		172,553
430	CWF Exp - Total	6410	691,406
435	CWF Exp - Benefits	6410	222,709
440	CWF Exp - Rents	6410	0
445	Total Plant Specific Expenses		957,242

Nex-Tech, Inc. (SAC 419007)**2008 Cost Study****USF Accounts**

Line	Description	Accnt or Cat	2008 Current
450	Network Operations Expense - Total	6530	244,071
455	Network Operations Expense - Benefits	6530	53,264
510	Depr Amort COE SW	6560.2210	19,064
515	Depr Amort COE OP	6560.2220	
520	Depr Amort COE TR	6560.2230	510,592
525	Total Depr Amort COE		529,655
530	Depr Amort CWF	6560.2410	884,737
535	Exec Planning Total	6710	3,068
540	Exec Planning Benefits	6710	608
550	Gen Admin Total	6720	136,841
555	Gen Admin Benefits	6720	13,161
565	Total Corp Oper Exp		139,909
600	Benefits - All Oper Exp		424,364
600	Rents - All Oper Exp		9,834
650	Operating Taxes	7200	205,548
655	Operating Other Taxes	7240	
700	Cost Study Avg CWF	2410	15,178,263
710	Cost Study Avg CWF	Cat 1	14,849,931
800	Amortizable Tangible Assets	2680	0
805	Amortizable Tangible Assets - COE Transmission	2680.2230	
810	Amortizable Tangible Assets - COE Transmission	Cat 4.13	
815	Amortizable Tangible Assets - CWF		
820	Amortizable Tangible Assets - CWF	Cat 1	
830	Amortization Expense - Amort Assets		

UNIVERSAL SERVICE FUND

2009 CERTIFICATION

I am Chief Operating Officer of Nex-Tech, Inc. SAC 419007. I hereby certify that I have overall responsibility for the preparation of all data in the attached 2009-1 data submission for this company and that I am authorized to execute this certification.

Based on information known to me or provided to me by employees responsible for preparation of the data in this submission, I hereby certify that the data have been examined and reviewed and are complete, accurate, and consistent with the rules of the Federal Communications Commission.

Date: 07-29-09

Certifying Signature: Jeff Wick

Name: Jeff Wick

Title: Chief Operating Officer

Period Covered: January 1, 2008 to December 31, 2008

This company during calendar year 2010 will be: Rural

This company has not acquired any exchanges during the period covered.

(FCC rules state that persons making willful false statements in this data submission can be punished by fine or imprisonment under the provisions of the U.S code, Title 18 Section 1001).

Nex-Tech, Inc. (SAC 419007)
Interstate Common Line Support Computation
December 31, 2008

Line	Description	Computation	Subtotal	Requirement
7	Revenue Requirement			\$1,340,984.68
8				
9	Residential and Single Line Business Lines	4,928		
10	End User Common Line Charge (EUCL)	\$6.50		
11	Monthly EUCL Single Line Revenue	\$32,032.00		
12	Annual EUCL Single Line Revenue		\$384,384.00	
13				
14	Multiline Business Lines	1,045		
15	End User Common Line Charge (EUCL)	\$9.20		
16	Monthly EUCL Multiline Business Revenue	\$9,614.00		
17	Annual EUCL Multiline Business Revenue		\$115,368.00	
18				
19	PRI Business Lines	38		
20	PRI Port Charge	\$23.51		
21	Monthly EUCL PRI Port Charges	\$893.38		
22	Annual EUCL PRI Port Charges		\$10,720.56	
23				
24	Total Common Line Revenue			\$510,472.56
25				
26	Interstate Common Line Support Requirement			\$830,512.12

FCC Form 509
Interstate Common Line Support Mechanism
Annual Common Line Actual Cost Data Collection Form

FCC Form 509
 OMB Control No. 3060-0972

ANNUAL COMMON LINE ACTUAL COST DATA COLLECTION			
Block 1 - Contact Information			
ROW #	DATA ELEMENT	FORMAT OF REQUESTED DATA	RESPONSE
1	Carrier Study Area Code	6 numeric digits	419007
2	Carrier Study Area Name	alpha characters	Nex-Tech, Inc.
3	Service Provider Identification Number	9 numeric digits	143028558
4	Data Period (specify years)	mm/dd/yyyy - mm/dd/yyyy	01/01/2008-12/31/2008
5	Date of Submission	mm/dd/yyyy	07/28/09
6	Contact Name	alpha characters	Jeff Wick
7	Contact Telephone Number [including area code]	10 numeric digits	785 625 7070
8	Contact E-mail Address	alpha/numeric characters	jwick@nex-tech.com
Block 2 - Actual Annual Common Line Revenue Requirement by Study Area			
9	Annual Common Line Costs for the reporting period	amount in \$	\$1,340,984.68
10	Annual SLC Revenues for the reporting period	amount in \$	\$499,752.00
11	Annual Special Access Surcharges for the reporting period	amount in \$	\$0.00
12	Annual Line Port Costs in Excess of Basic Analog Service for the reporting period	amount in \$	\$10,720.56
13	Annual LTS for the reporting period	amount in \$	\$0.00
14	Annual Transitional Carrier Common Line Charge Revenues for the reporting period	amount in \$	\$0.00

FCC Form 509
Interstate Common Line Support Mechanism
Annual Common Line Actual Cost Data Collection Form

FCC Form 509
OMB Control No. 3060-0972

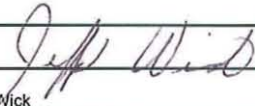
TO BE COMPLETED BY THE REPORTING CARRIER, IF THE REPORTING CARRIER IS FILING FCC FORM 509 ON ITS OWN BEHALF:

Certification of Officer or Employee as to the Accuracy of the Data Reported in FCC Form 509, Interstate Common Line Support Mechanism Annual Common Line Actual Cost Data Collection Form, on Behalf of Reporting Carrier

I certify that I am an officer or employee of the reporting carrier; my responsibilities include ensuring the accuracy of the Interstate Common Line Support Mechanism annual common line actual cost data in FCC Form 509; and, to the best of my knowledge, the information reported on this form is accurate.

Name of Reporting Carrier Nex-Tech, Inc

Signature of authorized officer or employee



Date 07-29-09

Printed name of authorized officer or employee Jeff Wick

Title or position of authorized officer or employee Chief Operating Officer

Telephone number of authorized officer or employee: (785) 625 -- 7070, ext.

Study Area Code of Reporting Carrier

419007

Filing Due Date for this form
(mm/dd/yyyy)

07/31/09

Persons willfully making false statements on this form can be punished by fine or forfeiture under the Communications Act of 1934, 47 U.S.C. §§ 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. § 1001.

**LOCAL SWITCHING SUPPORT
DATA COLLECTION FORM
COST COMPANY**

Approved by OMB

3060-0814

Estimate per Respondent: 24 Hours

(010)	Exchange Carrier Study Area Code	(010)	<u>419007</u>
(020)	Exchange Carrier Study Area Name	(020)	<u>Nex-Tech, Inc. (SAC 419007)</u>
(023)	Data Period	(023)	<u>December 31, 2008</u>
(025)	Submission Period (Check One)	Original Projection	<input checked="" type="checkbox"/> True-up to Actual <input type="checkbox"/>

(030)	Contact Name: Person USAC should contact for questions about this data	(030)	<u>Jeff Wick</u>
(040)	Contact Telephone Number: Number of the person identified in Data Line (030).	(040)	<u>785 625 7070</u>
(045)	Tax Status (Y = Taxable, N = NonTaxable)	(045)	<u>N</u>

II. WORKING LOOPS & DIAL EQUIPMENT MINUTE FACTOR

(050)	Category 1.3 Loops: Enter the count of Category 1.3 Loops excluding Category 1.3 TWX (Teletypewriter Exchange service) loops.	(050)	<u>6,080</u>
(060)	1996 Interstate Unweighted Dial Equipment Minute (DEM) Factor used in 1996 Cost Study (n.nnnnnn)	(060)	<u>0.365652</u>
(070)	1996 DEM Weighting Factor (n.n)	(070)	<u>3.0</u>

III. INVESTMENT, PLANT OPERATIONS EXPENSE AND TAXES

	<u>Total Account</u>	<u>Local Switching</u>
(100) Account 2001 - Telecommunication Plant in Service	(100) <u>25,740,255</u>	
(110) Account 2210 - Central Office Switching Equipment	(110) <u>425,986</u>	
(115) Account 2210 Cat. 3 - COE Category 3 (local switching)	(115) <u>425,986</u>	<u>\$425,986</u>
(120) Account 2220 - Operator System Equipment	(120) <u>0</u>	
(130) Account 2230 - Central Office Transmission Equipment	(130) <u>7,992,416</u>	
(140) Total Central Office Equipment [Sum of Data Lines (110) + (120) + (130)]	(140) <u>8,418,402</u>	
(150) Account 2310 - Information Origination/Termination	(150) <u>0</u>	
(160) Account 2410 - Cable and Wire Facilities	(160) <u>15,255,120</u>	
(170) Account 2110 - General Support Facilities	(170) <u>2,066,733</u>	<u>\$37,189</u>
(180) Account 2680 - Amortizable Tangible Assets	(180) <u>0</u>	<u>\$0</u>
(190) Account 2690 - Intangibles	(190) <u>0</u>	<u>\$0</u>
(200) Account 2002 - Property Held for Future Telecommunications Use	(200) <u>0</u>	<u>\$0</u>
(210) Account 2003 - Telecommunications Plant Under Construction	(210) <u>2,314,627</u>	<u>\$38,305</u>
(220) Account 2005 - Telecommunications Plant Adjustment	(220) <u>0</u>	<u>\$0</u>
(230) Account 1402 - Investments in non-Affiliated Companies (Rural Telephone Bank Stock)	(230) <u>0</u>	<u>\$0</u>
(240) Account 1220 - Materials and Supplies	(240) <u>2,372</u>	<u>\$39</u>
(250) Cash Working Capital	(250) <u>182,049</u>	<u>\$3,013</u>

**LOCAL SWITCHING SUPPORT
DATA COLLECTION FORM
COST COMPANY**

Approved by OMB

3060-0814

Estimate per Respondent: 24 Hours

(010)	Exchange Carrier Study Area Code	(010)	<u>419007</u>	
(020)	Exchange Carrier Study Area Name	(020)	<u>Nex-Tech, Inc. (SAC 419007)</u>	
(023)	Data Period	(023)	<u>December 31, 2008</u>	
(025)	Submission Period (Check One)	Original Projection	<input checked="" type="checkbox"/>	True-up to Actual <input type="checkbox"/>

(260)	Account 3100 - Accumulated Depreciation-Switching	(260)	<u>117,773</u>	<u>\$117,773</u>
(265)	Account 3100 - Accumulated Depreciation-Support Assets	(265)	<u>725,760</u>	<u>\$12,011</u>
(270)	Account 4100 - Net Deferred Operating Income Taxes	(270)	<u>0</u>	<u>\$0</u>
(280)	Account 4340 - Net Noncurrent Operating Income Taxes	(280)	<u>0</u>	<u>\$0</u>
(290)	Account 3400 - Accumulated Amortization - Tangible	(290)	<u>0</u>	<u>\$0</u>
(300)	Account 3500 - Accumulated Amortization - Intangible	(300)	<u>0</u>	<u>\$0</u>
(310)	Account 3600 - Accumulated Amortization - Other	(310)	<u>0</u>	<u>\$0</u>
(320)	Account 6110 - Network Support Expense	(320)	<u>8,675</u>	<u>\$144</u>
(330)	Account 6120 - General Support Expense	(330)	<u>84,608</u>	<u>\$1,522</u>
(340)	Account 6210 - Central Office Switching Expense	(340)	<u>111,359</u>	<u>\$5,635</u>
(350)	Account 6220 - Operator Systems Expense	(350)	<u>0</u>	<u>\$0</u>
(360)	Account 6230 - Central Office Transmission Expense	(360)	<u>61,194</u>	<u>\$3,097</u>
(361)	Account 6310 - Information Origination/Termination Expense	(361)	<u>0</u>	
(362)	Account 6410 - Cable and Wire Facilities Expense	(362)	<u>691,406</u>	
(370)	Account 6510 - Other Property Plant and Equipment Expense	(370)	<u>0</u>	<u>\$0</u>
(380)	Account 6530 - Network Operations Expense	(380)	<u>244,071</u>	<u>\$4,039</u>
(381)	Account 6540 - Access Expense	(381)	<u>328,389</u>	
(390)	Account 6610 - Customer Services Marketing Expense	(390)	<u>89,749</u>	<u>\$1,485</u>
(400)	Account 6620 - Customer Operations Services Expense	(400)	<u>126,411</u>	<u>\$2,092</u>
(410)	Account 6710 - Executive and Planning Expense	(410)	<u>3,068</u>	<u>\$38</u>
(420)	Account 6720 - Corporate Operations Expense	(420)	<u>136,841</u>	<u>\$1,689</u>
(430)	Account 7230 - Operating State and Local Income Taxes	(430)	<u>0</u>	<u>\$0</u>
(440)	Account 7240 - Operating Other Taxes	(440)	<u>205,548</u>	<u>\$3,402</u>
(450)	Account 7210 - Operating Investment Tax Credits - net	(450)	<u>0</u>	<u>\$0</u>
(460)	Account 7250 - Provision for Deferred Operating Income Taxes -net	(460)	<u>0</u>	<u>\$0</u>
(470)	Account 6560 - Depreciation and Amortization Expense-Switching	(470)	<u>19,064</u>	<u>\$19,064</u>
(475)	Account 6560 - Depreciation and Amortization Expense-Support	(475)	<u>93,413</u>	<u>\$1,546</u>

**LOCAL SWITCHING SUPPORT
DATA COLLECTION FORM
COST COMPANY**

Approved by OMB

3060-0814

Estimate per Respondent: 24 Hours

(010)	Exchange Carrier Study Area Code	(010)	<u>419007</u>
(020)	Exchange Carrier Study Area Name	(020)	<u>Nex-Tech, Inc. (SAC 419007)</u>
(023)	Data Period	(023)	<u>December 31, 2008</u>
(025)	Submission Period (Check One)	Original Projection	<input checked="" type="checkbox"/> True-up to Actual <input type="checkbox"/>

(480)	Account 7370 - Charitable Contributions only	(480)	<u>0</u>	<u>\$0</u>
(490)	Account 7500 - Interest and Related Items	(490)	<u>504,687</u>	<u>\$8,352</u>
(500)	Account 7340 - Allowance for Funds Used During Construction	(500)	<u>0</u>	<u>\$0</u>
(510)	Account 1410 - Other Non-current Assets	(510)	<u>0</u>	<u>\$0</u>
(520)	Account 1500 - Other Jurisdictional Assets - net	(520)	<u>0</u>	<u>\$0</u>
(530)	Account 4370 - Other Jurisdictional Liabilities and Deferred Credits - net	(530)	<u>0</u>	<u>\$0</u>
(540)	Account 4040 - Customer Deposits	(540)	<u>109,917</u>	<u>\$1,819</u>
(550)	Account 4310 - Other Long-Term Liabilities	(550)	<u>0</u>	<u>\$0</u>
(560)	Account 1438 - Deferred Maintenance and Retirements	(560)	<u>0</u>	<u>\$0</u>

A Factor	((COE Category 3)/(COE+CWF+IOT))	<u>0.017994</u>
B Factor	(COE Category 3/Total Plant In Service)	<u>0.016549</u>
C Factor	(COE Category 3/Total COE)	<u>0.050602</u>
D Factor	(COE 3 Expense/Big 3 Expense)	<u>0.012346</u>
E Factor	(COE 3/COE Switching)	<u>1.000000</u>

Current Period Net Investment	<u>\$372,929</u>
Prior Period Net Investment	<u>\$111,809</u>
Average Net Investment	<u>\$242,369</u>
Return on Investment	<u>\$27,267</u>
Federal Taxable Income	<u>\$0</u>
Federal Income Tax Requirement	<u>\$0</u>
Expenses and Other Taxes	<u>\$43,752</u>
Local Switching Revenue Requirement	<u>\$71,019</u>
Local Switching Support	<u>\$34,398</u>

Local Switching Support

CERTIFICATION

This certification statement must be signed by the officer or employee responsible for the overall preparation of the data submission. (Ref. Part 54 of FCC Rules, 47 C.F.R. Section 54.707).

The completed certification statement must accompany the data submission.

CERTIFICATION

I am Chief Operating Officer. I hereby certify that I have overall responsibility for the
(Title of Certifying Officer or Employee)
preparation of all data in the attached 2008 Local Switching Support True-up data submission
for Nex-Tech, Inc. and that I am authorized to execute this certification.
(Name of Carrier)

Based on information known to me or provided to me by employees responsible for the preparation of the data in this submission, I hereby certify that the data have been examined and reviewed and are complete, accurate, and consistent with the rules of the Federal Communications Commission.

Date: July 28, 2009

Certifying Signature: _____



Name: Jeff Wick

Title: Chief Operating Officer

Period Covered: January 1, 2008 to December 31, 2008

Persons willfully making false statements on this form can be punished by fine or forfeiture under the Communications Act of 1934, as amended, 47 U.S.C. §§ 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. § 1001.



December 11, 2009

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street
SW Portals II, Room TW-A325
Washington, DC 20554

**Re: Nex-Tech, Inc.
Submission of Cost Study
WC Docket No. 05-337; CC Docket No. 96-45**

Dear Ms. Dortch:

The Rural Independent Competitive Alliance ("RICA") respectfully submits this letter-comment in the above-referenced proceeding to support the expedient grant of the request by Nex-Tech to receive Universal Service Fund distributions based on its own costs. Although Nex-Tech submitted its cost study to USAC on July 29, 2009, in a manner consistent with established USF procedures, USAC has not acted to distribute USF support to Nex-Tech on the basis of its actual costs.

RICA respectfully urges the Commission to direct USAC to distribute to Nex-Tech USF support based on Nex-Tech's actual costs pursuant to the FCC's *Interim Cap Order*¹ and the Commission's established rules and procedures. RICA further urges the Commission

¹ *High-Cost Universal Service Support; Federal-State Joint Board on Universal Service, Alltel Communications, Inc., et al Petitions for Designation as Eligible Telecommunications Carriers RCC Minnesota Inc., RCC Atlantic*, 8834 (2008) ("*Interim Cap Order*").

to provide USAC with specific guidance and direction with respect to the processing of USF payments to all competitive eligible telecommunications carriers (“ETCs”) that submit company-specific cost studies as a basis for the determination of their appropriate USF distributions.

RICA is a national association of competitive local exchange carriers (“CLECs”) that are affiliated with rural incumbent local exchange carriers (“ILECs”). RICA members, including Nex-Tech, provide facilities-based service in rural areas. Following the 1996 Act, Nex-Tech and other RICA member companies responded to the pleas of their neighbors residing in nearby rural areas where the incumbent carrier provides basic service utilizing older obsolete networks. The customers in these rural areas, in contrast to the rural areas served by rural ILECs, are served by much larger incumbent carriers whose business plans focus on more lucrative densely populated service areas.

Nex-Tech and other RICA members brought state-of-the-art service over modern facilities to residential and business subscribers in these severely underserved areas and quickly achieved significant market share. As a result, many rural communities in remote, low density areas, including those served by Nex-Tech, have modern reliable communications services for which they would still be waiting if their only choice was the large incumbent LEC. Nex-Tech and other RICA members stand ready, willing and operationally able to expand their commitment to the provision of state of the art services in rural under-served area, including the deployment of networks that will support the provision of high speed broadband services. The financial ability of these carriers to achieve this national goal, however, is largely dependent upon the Commission’s USF high cost support system.

As providers of service in high cost to serve rural areas, the service areas in which RICA members focus are not generally market driven. These areas lack the economic and demographic characteristics of competitive market driven areas. The willingness of RICA members to make the financial commitment to bring advanced network services to these formerly under served rural areas is, therefore, largely based on the correct implementation of the Commission's universal service policies which recognize that a rationale portion of the costs of provision of services at reasonable rates to the rural consumers must be recovered through mechanisms other than the rates charged to rural end users.

In fact, all carriers serving high cost to serve rural areas face a similar dilemma. In order to provide advanced services at reasonable rates to rural customers, carriers serving high cost to serve rural areas require the continuity of Commission policies that enable them to recover a rational portion of their costs from mechanisms other than rural end user customer charges.

RICA has, in this regard, fully supported the Commission's efforts to control and reform the USF by ensuring that the funding requirements of the high cost support program are directly tied to the actual costs of providing service. Accordingly, RICA has long advocated that rural CLECS that are designated as ETCs should recover a reasonable portion of their costs from the USF based on the submission of their costs in a manner consistent with the rules applied to rate of return regulated carriers.

RICA has consistently noted that the flawed "identical support" rule utilized to determine the distribution of USF to competitive ETCs does not achieve the Commission's underlying universal service objectives. In some instances, the "identical support" rule has

resulted in excessive funding that has no relation either to the actual costs of the service provided by the recipient. In other instances, including that experienced by Nex-Tech, the “identical support” rule results in insufficient funding.

This inequitable result occurs when a rural competitive ETC, such as Nex-Tech, attempts to bring state of the art universal service to a high cost to serve area that is underserved by the large incumbent carriers. These areas, often relatively neglected by the larger incumbent LECs, are not subject to the receipt of USF based on actual costs. Instead, these areas are subject to the USF formulas applied to non-rural LECs that are associated with models related to the large carrier’s statewide costs which include the costs of serving the more densely populated and lower cost to serve areas of the state.²

The Commission took a most welcomed first step in addressing this problem when it adopted the *Interim Cap Order* in which it both established a cap on the “identical support” based USF available to competitive ETCs, and, at the same time, adopted a limited exception to the interim cap when a competitive ETC submits its own costs as the basis for determining its USF distribution (the “Cost Study Exception”). While RICA heartily applauded the Commission’s action that explicitly fosters the nation’s universal service policies by rationally enabling a competitive carrier to obtain USF distributions based on the actual cost of providing universal service, RICA and its members are disheartened by the apparent stall that has taken place in implementing the policy adopted last year.

² Moreover, the manner in which USF high cost support distributions to non-rural carriers is determined has been the subject of a long pending Appellate Court remand to the Commission. The issues raised by the remand could easily be resolved if the Commission applied the same cost based USF distribution rules to all ETCs as it applies to rural incumbent carriers.

RICA understands that the delay by USAC in moving forward arises because of concern with regard to its understanding of the Commission's expectation of how a competitive ETC will demonstrate its own costs. In the case of Nex-Tech and any other wireline facilities-based ETC, however, there is no question about how the cost demonstration is made. The FCC stated that, pursuant to the Cost Study Exception, "a competitive ETC will not be subject to the interim cap to the extent that it files cost data demonstrating that its costs meet the support threshold in the same manner as the incumbent LEC."³ The plain and clear words of the Commission provided equal treatment and equal protection to Nex-Tech and all similarly situated competitive ETCs. Nex-Tech is required to do exactly as it has done: prepare a demonstration of its costs in exactly the same manner as a wireline incumbent LEC demonstrates its costs. Nex-Tech has prepared and submitted its demonstration of its actual costs pursuant to Parts 32, 36 and 69 of the Commission's Rules, consistent with the precise manner in which an incumbent LEC files its costs.

Nex-Tech's cost submission to USAC raises no new or novel process or issue. Nonetheless, the Nex-Tech cost submission lingers at USAC more than a year after the adoption of the *Interim Cap Order*. The failure to distribute USF high cost support to Nex-Tech on the basis of its own costs – and consistent with the Commission's straight-forward and rational universal service policy – is inequitable to Nex-Tech, its customers and its potential customers residing in under-served rural areas. Moreover, the unnecessary delay in processing Nex-Tech's company-specific cost demonstration raises an alarm for all RICA members and all potential carriers that stand ready, willing and operationally ready to bring

³ *Interim Cap Order*, ¶ 31

advanced services to rural areas by imposing the question of whether they can rely on the universal service policy and rules that the Commission adopted.

RICA and its members fully understand that the Commission is challenged with a barrage of significant policy and operational issues, and regrets that it is necessary to bring this matter to the Commission's attention. RICA notes, however, that this matter does not involve an unsettled matter of law or unresolved issue of fact; nor does it require the dedication of any new staff resources. By directing USAC to process the company-specific cost demonstrations filed by Nex-Tech and any other wireline competitive ETC that "files cost data demonstrating that its costs meet the support threshold in the same manner as the incumbent LEC,"⁴ the Commission can easily resolve this matter and remove the concern that has been raised with respect to the Commission's intent to implement the Cost Study Exception policy adopted last year.

Sincerely,

s/Stephen G. Kraskin

Stephen G. Kraskin
Counsel to the
Rural Independent Competitive Alliance
2154 Wisconsin Ave. N.W.
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⁴ *Interim Cap Order*, ¶ 31